

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

SUBJECT: EEO/AFFIRMATIVE ACTION

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APPROVED: _____
Deputy Secretary, Department of Transportation

SECTION: 11A

Issued: 3/1/93

Revision No. 1

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Effective: 10/1/93

1. PURPOSE

- 1.1 To establish the Department of Transportation Affirmative Action Plan.
- 1.2 To establish the Department Affirmative Action Plan as the reference for practices and procedures pertinent to the Department's affirmative action program.
- 1.3 To assign responsibilities for periodic review and updating the Department Affirmative Action Plan.

2. APPLICABILITY

- 2.1 This policy is applicable to all elements of the Department of Transportation as defined in Transportation Service Regulation 11.02.01.02B

3. AUTHORITY

- 3.1 Title I, Civil Rights Act of 1991
- 3.2 Title VII, Civil Rights Act of 1964
- 3.3 Title I, Civil Rights Act of 1968
- 3.4 Age Discrimination in Employment Act of 1967
- 3.5 Americans with Disabilities Act of 1990
- 3.6 Section 504 of the Rehabilitation Act of 1973
- 3.7 Equal Pay Act of 1963
- 3.8 Intergovernmental Personnel Act of 1970
- 3.9 National Labor Relations Act of 1935

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- 3.10 Civil Rights Act of 1866
- 3.11 Civil Rights Act of 1870
- 3.12 Fifth Amendment, U.S. Constitution
- 3.13 Fourteenth Amendment, U.S. Constitution
- 3.14 Uniform Guidelines on Employee Selection Procedure 43 CFR 166 (1978)
- 3.15 Article 49B of the Annotated Code of Maryland
- 3.16 Governor's Executive Order 01.01.1980.16 – Prohibiting Sexual Harassment
- 3.17 Governor's Executive Order 01.01.1993.16 – Governor's Code of Fair Practices
- 3.18 Transportation Service Human Resources System Transportation Service Policy on Equal Employment Opportunity and Affirmative Action
- 3.19 Transportation Service Human Resources System Regulation 11.02.04 – Equal Employment Opportunity

4. DEFINITIONS

- 4.1 Affirmative Action (AA) – The efforts exerted toward achieving equal opportunity through positive, aggressive and continuous results-oriented measures to correct past or present discriminatory practices and their effects on the conditions and privileges of employment.
- 4.2 Affirmative Action Plan (AAP) – A positive management plan that indicates the action steps required for all organizational levels to initiate and measure equal opportunity program progress and effectiveness.
- 4.3 Affirmative Action Plan Goals – The anticipated results to be achieved by following specific Affirmative Action objectives.
- 4.4 Affirmative Action Plan Objective – Specific actions to be taken by designated responsible officials on or by some specified date to achieve one or more Affirmative Action Plan goals.

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- 4.5 Discrimination – A distinction in treatment, whether intentional or unintentional, based on race, color, creed, national origin, marital status, sexual orientation, gender, political or religious opinion or affiliation, physical or mental disability, age or non-merit factors.
- 4.6 Disparate Impact – A test, job qualification or other employment policy, procedure, or practice which tends to screen out or limit the employment opportunities of protected class members at a greater rate than other groups.
- 4.7 Disparate Treatment – A distinction in employment practices (whether intentional or unintentional) which tend to adversely affect the employment opportunities of a specific member of protected classes at a greater rate than a member of other groups.
- 4.8 Equal Employment Opportunity (EEO) – The absence of partiality or distinction in employment treatment, so that the rights of all persons to work and advance on the basis of merit, ability and potential are maintained.
- 4.9 Hostile Work Environment – An intimidating or offensive business atmosphere created by verbal or physical conduct which has the effect of unreasonably interfering with an individual's work performance. Conditions of employment also include the psychological and emotional work environment.
- 4.10 Department Fair Practices Officer – The individual within the Department charged with the enforcement of the Annotated Code of Maryland and the Affirmative Action Plan adopted pursuant to Article I(c) of the Code, including but not limited to the development and conduct of plans, programs, and policies to establish and promote non-discriminatory employment and personnel policies within the Department.
- 4.11 Non-Merit Factor – Differential treatment because of personal biases not related to race, color, creed, gender, age, religion, or disability.
- 4.12 Numerical Goals – Specific levels of minority and female employment that are attainable by the Affirmative Action Plan.
- 4.13 Personnel Actions – Include the following types of activities: advertising, recruitment, interview, selection, training, classification, compensation, benefits, perks, and privileges.

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- 4.14 Protected Groups or Classes – A classification of employees or applicants for employment who are covered by federal or state legislation protecting them from discriminatory actions or requiring affirmative actions on their behalf, i.e. – African American, Hispanic, Asian, Native American, women and persons with disabilities.
- 4.15 Quantitative Goals – The specific numerical level necessary to achieve parity in a particular job category for a particular protected class.
- 4.16 Qualitative Goals – The activities necessary that will assist in the achievement of the quantitative goals designed to enhance the employment status of protected class members.
- 4.17 Retaliation – Negative actions taken against an employee as revenge for the employee having filed a complaint of discrimination. Negative actions taken against an employee as revenge for the employee serving as a witness in the investigation of a complaint of discrimination.
- 4.18 Targeted Positions – Those positions identified for Affirmative Action purposes. They are identified by an Appointing Authority and the Equal Opportunity Officer to achieve the goals identified in the Department Affirmative Action Plan. The identification is based on the availability of protected group applicants in the civilian labor force by major job category and using the State-wide availability indicators provided by the U.S. Census Bureau.
- 4.19 Under Representation – The percentage of minority or female employees in a particular job category being less than the availability in a representative geographic region for the category in question.
- 4.20 Under Utilization – The assignment of a small or insufficient amount or level of duties within a unit to a particular employee that may have the effect of limiting that employee's career mobility.
- 4.21 Upward Mobility – The provision of assistance (such as training, tuition reimbursement, work experience) to an employee so the employee may assume a higher level of duties and responsibilities and have a greater promotional potential.

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5. PROCEDURE

- 5.1 Each January, the current Affirmative Action Plan will be evaluated by the Equal Opportunity Officer representing each Administration to determine areas where changes or corrections are warranted.
- 5.2 An assessment of the problems and progress over the prior period must be completed and provided to management.
- 5.3 The Equal Opportunity Officer will perform an analysis of areas where the problems can be reduced or eliminated.
- 5.4 The Department Equal Employment Opportunity/Affirmative Action Plan shall be maintained as the reference for practices and procedures pertinent to the Department's affirmative action program.
- 5.5 The Department Equal Opportunity Officer Action Plan shall provide general and specific policy guidance to assure equal opportunity in the Department and shall include general guidelines on the following:
 - 5.5.1 Publicity and dissemination of EEO/AA matters.
 - 5.5.2 EEO/AA requirements in employee recruitment and selection.
 - 5.5.3 Education, training and career development in a non-discriminatory manner.
 - 5.5.4 Processing, investigating and disposition of complaints of discrimination.
 - 5.5.5 Compliance with and monitoring of the success of the Affirmative Action Plan.